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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/586,943 06/02/00 DEYOUNG

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EXAMINER

DEXTER, C

ART UNIT

PAPER NUMBER

3724  
DATE MAILED:

4  
10/02/01

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

# Office Action Summary

Application No.  
09/586,943

Applicant(s)  
DeYoung

Examiner  
Clark F. Dexter

Art Unit  
3724



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_\_
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above, claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) \_\_\_\_\_ is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☒ Claims 1-34 are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).  
a) ☐ All b) ☐ Some\* c) ☐ None of:  
1. ☐ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\*See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other: \_\_\_\_\_

Art Unit: 3724

## **DETAILED ACTION**

### ***Election/Restriction***

1. Restriction to one of the following inventions is required under 35 U.S.C. 121:
  - I. Claims 1, 2 and 18, drawn to a dough divider with actuation control structure, classified in class 83, subclass 72.
  - II. Claims 1, 3-8, 10, 14, 17-24, 27, 31 and 33, drawn to a dough divider with a specific press plate configuration, classified in class 83, subclass 620.
  - III. Claims 1, 9, 18, 25 and 26, drawn to a dough divider with a specific lid configuration, classified in class 83, subclass 658.
  - IV. Claims 1, 10-13, 18 and 27-30, drawn to a dough divider with a specific knife assembly configuration, classified in class 83, subclass 694.
  - V. Claims 1, 14-16, 18, 31 and 32, drawn to a dough divider with a specific latch assembly control structure, classified in class 83, subclass 701.
2. Claims 1-17 have been restricted such that the patentability of the invention is presumed to lie in the details of the particular group (e.g. the control structure of Group I). It is noted that if claim 1 as originally filed is determined to be patentable, rejoinder of claims 1-17 will be considered. It is further noted that claim 1 is listed as part of groups I-V but is not considered to be part any of these groups. Rather, claim 1 recites subject matter that is common to all of the groups and has been shown as part of each group for clarity (i.e., so that it is clear which claims

Art Unit: 3724

are part of which group). Further, because claim 1 includes subject matter that is common to all of the groups, it is not considered to be independent or distinct from any of the groups.

Therefore, claim 1 will be examined upon election of one of the groups. The same applies to claim 18 with respect to the claims dependent therefrom.

3. The inventions are distinct, each from the other because of the following reasons:

Group I vs Groups II-V

4. Inventions of groups I and II are separate inventions. They are distinct because the invention of group I does not require the specific details of the press plate configuration of group II for patentability as evidenced by the omission thereof from group I, and the invention of group II does not require the specific details of the actuation control structure of group I for patentability as evidenced by the omission thereof from group II.

5. Inventions of groups I and III are separate inventions. They are distinct because the invention of group I does not require the specific details of the lid configuration of group III for patentability as evidenced by the omission thereof from group I, and the invention of group III does not require the specific details of the actuation control structure of group I for patentability as evidenced by the omission thereof from group III.

6. Inventions of groups I and IV are separate inventions. They are distinct because the invention of group I does not require the specific details of the knife assembly configuration of group IV for patentability as evidenced by the omission thereof from group I, and the invention of

Art Unit: 3724

group IV does not require the specific details of the actuation control structure of group I for patentability as evidenced by the omission thereof from group IV.

7. Inventions of groups I and V are separate inventions. They are distinct because the invention of group I does not require the specific details of the latch assembly control structure of group V for patentability as evidenced by the omission thereof from group I, and the invention of group V does not require the specific details of the actuation control structure of group I for patentability as evidenced by the omission thereof from group V.

Group II vs Groups III-V

8. Inventions of groups II and III are separate inventions. They are distinct because the invention of group II does not require the specific details of the lid configuration of group III for patentability as evidenced by the omission thereof from group II, and the invention of group III does not require the specific details of the press plate configuration of group II for patentability as evidenced by the omission thereof from group III.

9. Inventions of groups II and IV are separate inventions. They are distinct because the invention of group II does not require the specific details of the knife assembly configuration of group IV for patentability as evidenced by the omission thereof from group II, and the invention of group IV does not require the specific details of the press plate configuration of group II for patentability as evidenced by the omission thereof from group IV.

Art Unit: 3724

10. Inventions of groups II and V are separate inventions. They are distinct because the invention of group II does not require the specific details of the latch assembly control structure of group V for patentability as evidenced by the omission thereof from group II, and the invention of group V does not require the specific details of the press plate configuration of group II for patentability as evidenced by the omission thereof from group V.

Group III vs Groups IV-V

11. Inventions of groups III and IV are separate inventions. They are distinct because the invention of group III does not require the specific details of the knife assembly configuration of group IV for patentability as evidenced by the omission thereof from group III, and the invention of group IV does not require the specific details of the lid configuration of group III for patentability as evidenced by the omission thereof from group IV.

12. Inventions of groups III and V are separate inventions. They are distinct because the invention of group III does not require the specific details of the latch assembly control structure of group V for patentability as evidenced by the omission thereof from group III, and the invention of group V does not require the specific details of the lid configuration of group III for patentability as evidenced by the omission thereof from group V.

Art Unit: 3724

Group IV vs Group V

13. Inventions of groups IV and V are separate inventions. They are distinct because the invention of group IV does not require the specific details of the latch assembly control structure of group V for patentability as evidenced by the omission thereof from group IV, and the invention of group V does not require the specific details of the knife assembly configuration of group IV for patentability as evidenced by the omission thereof from group V.

14. Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

15. Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

16. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Clark Dexter whose telephone number is (703) 308-1404.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Rinaldi Rada, can be reached at (703)308-2187.

Application/Control Number: 09/586,943

Page 7

Art Unit: 3724

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (703)308-1148. The fax numbers for this group are: formal papers - (703)305-3579; informal/draft papers - (703)305-9835.



**Clark F. Dexter**  
**Primary Examiner**  
**Art Unit 3724**

cfd  
September 28, 2001